

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Charlottesville Division**

JANE DOE,

Plaintiff,

v.

**RECTOR AND VISITORS OF THE
UNIVERSITY OF VIRGINIA,**

Defendant.

Case No. 3:23-cv-00018-RSB

**PLAINTIFF'S AMENDED MEMORANDUM IN SUPPORT OF
MOTION TO EXTEND RESPONSE DEADLINE**

Plaintiff Jane Doe, through undersigned counsel, respectfully submits this Memorandum in Support of her Motion to Extend Response Deadline. Plaintiff respectfully requests that the deadline to file her responses to Defendant's Motion for Summary Judgment and Motion to Exclude Plaintiff's Expert Witness Andrew C. Verzilli be extended from October 9, 2024, to October 23, 2024.

FACTUAL AND PROCEDURAL BACKGROUND

Defendant filed a Motion for Leave to File Excess Pages for Memorandum in Support of Motion for Summary Judgment (ECF No. 61). Plaintiff filed a Response, seeking additional time to file a response to the Motion for Summary Judgment if Defendant's Motion were granted (ECF No. 62). This Court granted Defendant's Motion and instructed Plaintiff to file a Motion to Extend if, after reviewing the Motion for Summary Judgment, she determined that she needed additional time beyond the Court's standard fourteen days to file a response (ECF No. 65). Plaintiff's counsel has preliminarily reviewed the motions and related exhibits.

Plaintiff requests that this Court extend her deadline to respond to both motions by two weeks, citing the below reasons in support.

LAW AND ARGUMENT

Federal Rule of Civil Procedure 6 provides: “[w]hen an act may or must be done within a specified time, the court may, for good cause, extend the time...if a request is made, before the original time or its extension expires....” Fed. R. Civ. P. 6(b)(1)(A). “Both the Federal Rules of Civil Procedure and the Supreme Court have made it clear that the criteria the District Court is to use in considering whether to grant an extension depends on whether the motion was made before or after the deadline.” *Thompson v. E.I. DuPont de Nemours & Co., Inc.*, 76 F.3d 530, 534 (4th Cir. 1996) (internal citations removed).

I. Simultaneous Motions

The Court’s Local Rules provide a fourteen-day timeline to file briefs responding to motions. W.D. Va. Civ. R. 11(c)(1). Here, Defendants have filed two simultaneous motions – a Motion for Summary Judgment (ECF No. 66) and a Motion to Exclude Plaintiff’s Expert Witness Andrew C. Verzilli (ECF No. 68). Defendant’s Brief in Support of its Motion for Summary Judgment is 40 pages long and includes approximately 3652 pages of exhibits. Defendant’s Brief in Support of its Motion to Exclude Verzilli is 15 pages long and includes approximately 49 pages of exhibits. Responding sufficiently and thoroughly to a 40-page motion with over 3500 pages of exhibits would be a challenge on its own; with a second motion response required in that same timeline, the challenge becomes even greater. For that reason, there is good cause to extend the filing deadline for Plaintiff’s responses to the Motion for Summary Judgment and the Motion to Exclude Verzilli.

II. Preexisting Schedule Obligations

In addition to the volume of material requiring a response, Plaintiff's counsel has had several obligations arise over the course of the next few weeks which further limit their ability to properly respond to the motions by October 9, 2024.

a. Attorney Abdnour

i. T.J. v. Grand Blanc School District

Attorney Abdnour represents the petitioner in the matter of *T.J. v. Grand Blanc School District*, filed on June 12, 2024. The final two days of the four-day special education due process hearing in this matter took place on September 26 and 27, 2024.¹ As a result, Attorney Abdnour was unable to begin thoroughly reviewing the filing or working on any substantive response in this matter during those two days. At the close of the hearing today, the hearing officer ordered that closing briefs be submitted by October 7, 2024, and responses to closing briefs be submitted by October 14, 2024.² These briefs summarize all relevant facts with citations to the record, include detailed legal arguments, and often run to 40 to 50 pages in length. No transcripts have yet been provided to the parties, so significant work remains to be completed in this matter.

ii. Doe et al. v. Board of Regents of the University of Nebraska

Attorney Abdnour represents two plaintiffs in the matter of *Doe et al. v. Board of Regents of the University of Nebraska*, filed on July 20, 2020, which involves Title IX claims. Initially, the defendant's motion for summary judgment was to be due on August 1, 2024, and plaintiffs' response was to be due on September 3, 2024; the defendant's motion to exclude was to be due on September 3, 2024, and plaintiff's response was to be due on September 17, 2024. However,

¹ See Exhibit 1.

² *Id.*

on July 26, 2024, defendant's counsel moved for an extension of their deadline to file the motion for summary judgment from August 1, 2024, to September 3, 2024, which the court granted.³ The court then commensurately granted plaintiffs' motion to extend their deadline to respond to all motions to October 18, 2024.⁴ Defendant filed its motion for summary judgment and motion to exclude expert testimony as scheduled with approximately 1113 pages of exhibits as scheduled, and Attorney Abdnour and her cocounsel have been working on the responses since that date.

iii. N.D. Title IX matter

Attorney Abdnour represents the claimant in a Title IX investigation at a Michigan middle school filed in April 2024. On September 19, 2024, the school issued a preliminary investigative report and provided the claimant with 10 days to respond. The claimant requested, and received, an extension to file her response until October 7, 2024, as Attorney Abdnour could not assist the claimant with her response on the timeline allotted because she was required to prepare for and attend a hearing in federal court on September 24, 2024, and a special education due process hearing on September 26 and 27, 2024.

iv. M.U. Title IX matter

Attorney Abdnour represents the claimant in a Title IX investigation at a Michigan university filed in October 2023. On September 25, 2024, the university issued a determination in the matter, which the claimant wishes to appeal. The university initially set the appeal deadline as September 30, 2024. The claimant requested, and received, an extension to file his appeal until October 4, 2024, as Attorney Abdnour could not complete the appeal on the timeline allotted as she was required to attend a special education due process hearing on September 26

³ See Exhibit 2.

⁴ See Exhibit 3.

and 27, 2024.

v. Family displaced by Hurricane Helene

Between September 25 and 27, 2024, Asheville, North Carolina, was deluged by Hurricane Helene.⁵ Attorney Abdnour's mother, stepfather, sister, and niece all reside in Asheville. For several days, Attorney Abdnour was unable to make contact with her family due to the loss of electricity and cell phone service across Western North Carolina. On Sunday, September 29, 2024, Attorney Abdnour's parents were able to contact her briefly via cell phone to notify her that the family was safe.

On September 30, 2024, Attorney Abdnour's mother contacted her and notified her that the Asheville community had learned that its electricity would not be restored for at least a week and that water would not be restored for up to two months. On October 1, 2024, Attorney Abdnour's sister contacted her and notified her that the community had learned that the water restoration would likely take even longer as the backup water system had also failed. Later that day, Attorney Abdnour's sister contacted her again and notified her that looting had begun in the Asheville community, both in houses and businesses, because emergency supplies were still not fully and readily available.⁶ Attorney Abdnour's sister notified her that she had learned that her

⁵ Storms Reback, A Disaster No One Saw Coming, The Assembly (Oct. 1, 2024), <https://www.theassemblync.com/essays/hurricane-helene-disaster-asheville/>.

⁶ “On Monday, about three days after Helene hit Florida as a Category 4 storm, survivors in North Carolina were scrounging for food and clean water and shuffling from shelter to shelter.... [Buncombe County Manager Avril] Pinder said the county had tried to head off a water shortage by requesting water and other supplies before the storm hit last week. ‘We requested water even before the storm started — because we knew that — not that it was going to fail — but we were asking for water so that people could have extra,’ Pinder said. ‘We were asking for food, we were asking for anything, because we felt some people were going to be cut off because of how much rain was coming.’ ... Despite the advance requests, Pinder said, Buncombe County received its first shipment of water at 2:30 a.m. Monday. Asked whether the county had its own reserves of water for such emergencies, Pinder acknowledged it didn’t. ‘We do not have a county stockpile,’ she said. The county relies on contractors for water reserves, she added, but she said it couldn’t immediately access water from its primary local provider that it typically relies on during emergencies because ‘the Swannanoa River kind of made them isolated to us and we could not get to that stockpile.’” Melissa Chan, et al., *In the wake of Hurricane Helene, questions about government response emerge*, NBC News (Sep. 30, 2024), <https://www.nbcnews.com/news/us-news/wake-hurricane-helene-questions-emerge-government-warnings-response-rcna173347>.

daughter's school would be closed until further notice.

Attorney Abdnour's sister asked if the family could come to stay with Attorney Abdnour, as they no longer feel safe remaining in Asheville given the looting and lack of electricity and water for an unknown duration of time. Attorney Abdnour agreed. Attorney Abdnour has now begun the process of making space in her home for three adults, a child, a dog, and two guinea pigs, who plan to arrive at her home sometime around October 4-5, 2024.

b. Attorney Munro

Attorney Munro has preplanned family travel obligations and will be out of the office the entire week of October 6-13, 2024. Attorney Munro's daughter is out of school that week and his spouse will be out of town the entire week, so he will also be responsible for full time childcare during that period.

III. Good Cause

Counsel for Plaintiff were already on a very tight schedule given the above, and the fact that both are owners of law firms, with significant caseloads and administrative and management duties. However, the additional 15 pages of briefing filed with Defendant's Motion for Summary Judgment, along with over 3000 pages of exhibits – three times the pages of exhibits filed in the *Doe v. UNL* matter, which involves two plaintiffs – is going to require substantial response time and effort.

Given the considerations outlined above, counsel for Plaintiff cannot sufficiently and thoroughly respond to the motions in the timeline allotted, and there is good cause to extend the deadline for submission of Plaintiff's responses to Defendant's Motion for Summary Judgment and Motion to Exclude Verzilli to October 23, 2024.

CONCLUSION

Good cause exists to grant the requested extension. Counsel for Plaintiff are working diligently to comply with all Court deadlines. The extension of time requested will not cause any undue hardship or prejudice to any party. Failure to grant this Motion will cause prejudice to Plaintiff.

WHEREFORE, Plaintiff respectfully requests that this Court extend the deadline to file her responses to Defendant's Motion for Summary Judgment and Motion to Exclude Plaintiff's Expert Witness Andrew C. Verzilli to October 23, 2024.

Dated: October 1, 2024

Respectfully submitted,

s/Elizabeth K. Abd'nour
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CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of October, 2024, a true and accurate copy of the foregoing document was filed using the Court's ECM/ECF filing system, which will send an electronic notification to all counsel of record.

s/ Elizabeth K. Abdounur
Attorney at Law
Attorneys for Plaintiff

